

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION

FEB 14 2 56 PM '90
COURT OF COMMON PLEAS
ALLEGHENY COUNTY

ELIZABETH NELSON RANDOLPH
a/k/a LIZ RANDOLPH,

Plaintiff,

v.

DONALD JEFFERSON a/k/a
BANANA DON, JAMES QUINN,
and EZ COMMUNICATIONS, INC.,

Defendants.

NO. GD 88-02730

INTERROGATORIES

Dated:

14 day of February, 1990

William Bauer

Jury Foreman

LED
PH 1:10
NOTARY
ALLEGHENY COUNTY

Instructions:

1. On the issue of defamation, do you find:

For Plaintiff X

For All Defendants _____

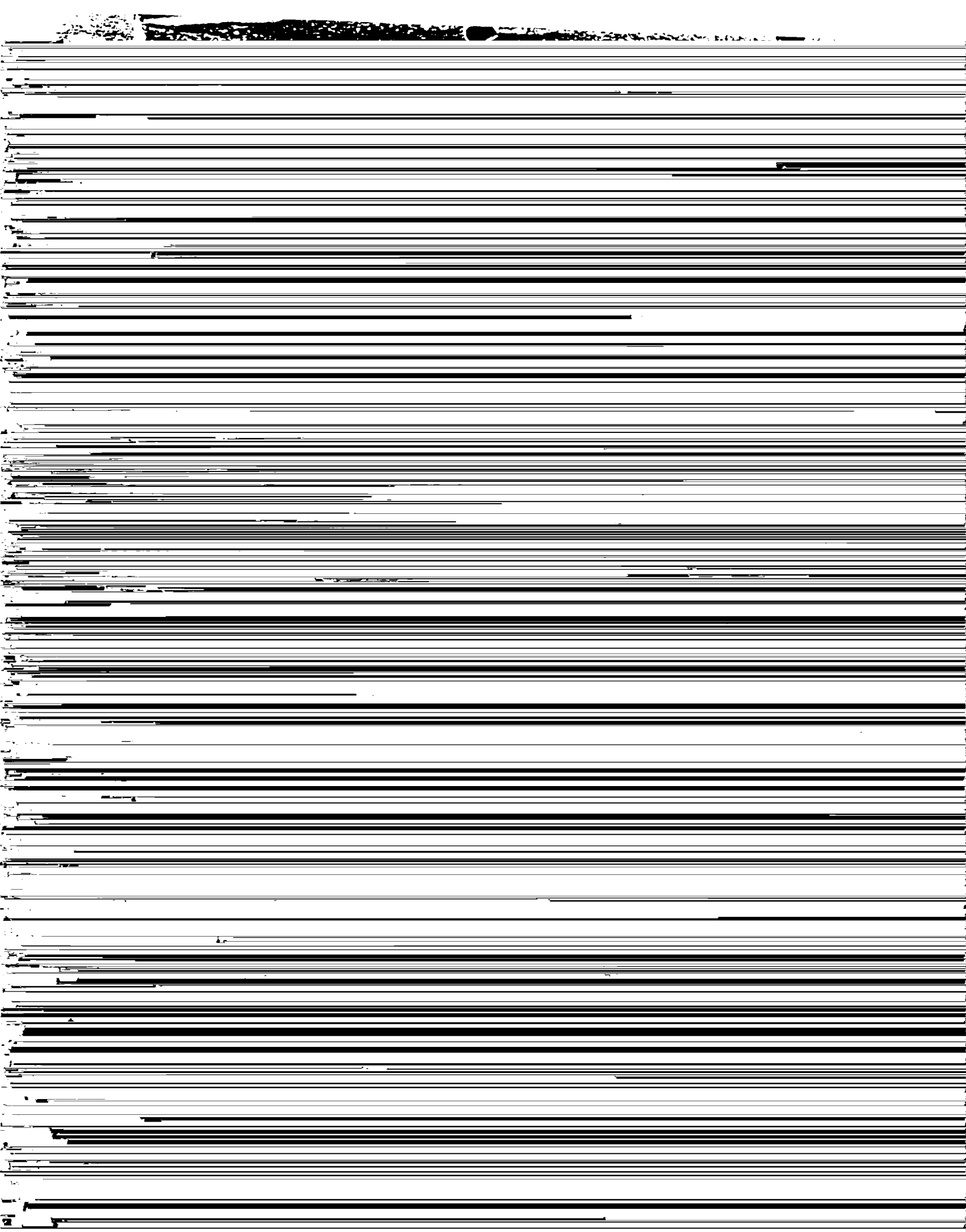
- (a) If you find for all Defendants, do not complete (b), (c) or (d) below, but go on to question 2.
- (b) If you find for Plaintiff on the issue of defamation, indicate which of the defendants you find liable for defamation:
1. Donald Jefferson X
 2. James Quinn X
 3. EZ Communications X
- (c) If you find for Plaintiff on the issue of defamation, indicate the amount of damages, any, for which you find the Defendants liable for defamation:
- (d) Compensatory damages, if any: \$16,250.⁰⁰
Punitive damages, if any: \$48,750.⁰⁰

2. On the issue of intentional infliction of emotional distress, do you find:

For Plaintiff X

For All Defendants _____

- (a) If you find for all Defendants, do not complete (b), (c) or (d) below, but go on to question 3.
- (b) If you find for Plaintiff on the issue of intentional infliction of emotional distress, indicate which of the defendants you find liable for intentional infliction of emotional distress:
1. Donald Jefferson X
 2. James Quinn X
- (c) If you find for Plaintiff on the issue of intentional infliction of emotional distress, indicate the amount of damages for each Defendant, if any, for which you find them liable for intentional infliction of emotional distress:
- (d) Compensatory damages, if any: \$97,500.⁰⁰
Punitive damages, if any: \$392,500.⁰⁰



DECLARATION

Lewis I. Cohen hereby declares under penalty of perjury that the following is true:

On June 7, 1991 I attempted to review the files in the Office of the Prothonotary in the Court of Common Pleas in Pittsburgh, Pennsylvania of the following two actions: G.D. 88-02730 and G.D. 89-22010. As part of the file there was included an envelope which was sealed. I asked an employee of the Clerk's Office named Terry Sands whether I could review the contents of the envelope. Mr. Sands checked with another person, and then opened the envelope for me and handed me the transcript of the May 24, 1991 hearing before Judge John L. Musmanno. I asked Mr. Sands if I could xerox the transcript. He told me that was not permitted, but that I could make whatever notes I wanted of the transcript.

Post Trial Relief; the transcript of a February 13, 1990

Transcript of May 24, 1991 11:30 a.m.
Hearing in Chambers

The Court:

Let the record reflect that we are in Chambers, that we have been discussing settlement, and the case has been resolved.

Present in Court are the plaintiff, with her counsel Howard Louik, the defendant's counsel, Terrance Murphy, Allan Andrascik, Edward Meyers, General Manager of WBZZ and Allan Box, President of EZ Communications.

Both sides have agreed that the amount of settlement will be absolutely confidential. It will not be discussed in any sort of range, whether it be one figure, two figures or 50 figures.

There will be no inkling whatsoever of the range of the settlement other than the parties are permitted to say to anybody that the case was amicably resolved. Both parties are pleased with the settlement. It ends many years of potential litigation. Other than that they will say nothing about it.

The plaintiffs will settle and discontinue the present action G.D. 89-22010.

The plaintiff will also settle and discontinue the prior action G.D. 88-02730.

Further, that this settlement encompasses the plaintiff withdrawing their letter of inquiry with the FCC.

Further, the plaintiff agrees that she will not file a complaint with the FCC. She will not assist

anybody in filing a complaint with the FCC. She will in no way directly or indirectly assist anybody in filing a complaint.

Further, should she be subpoenaed, in the unlikely event some party that we don't know about files a complaint, she will refuse to testify on the grounds that the Court Order in this present case prohibits her; and, it is understood that if that Order doesn't prevent her, that that will not be a violation of this agreement.

In other words, she will go as far as refusing to testify and saying that you'll have to get approval from Judge Musmanno who will not give approval. If somehow I'm overruled by some higher court, then understand that that's not a breach of the agreement. She has given her assurance that she will not do anything voluntarily in any way to cause you a problem with the FCC. I mean I don't know how much broader I can make it other than that.

The Court:

Further, the parties agree that the record on appeal at G.D. 88-02730, the parties agree that the entire record will be sealed by Court Order, including transcripts of testimony, any pleadings, documents filed, any briefs, letters that were attached as exhibits to those briefs or records. All will be sealed by Court Order.

[There follows a discussion concerning the
Court's Order concerning mutual releases.]

The Court:

The parties further agree that as part of the agreement they intend to execute, that there will be a mutual non-disparagement clause and.....

Mr. Kamin:

A statement in the release that the objected to conduct by Ms. Randolph was not that of management but that of co-workers or co-employees.

The Court:

An essential consideration of this settlement agreement is the need for confidentiality on both sides. Accordingly, it's to be understood by both parties should there be any breach of the confidentiality provisions, that the Court will then entertain a contempt action against the breaching party. In other words, any breach of this agreement will involve a contempt citation.

Mr. Kamin:

Defendants will pay record costs.

The Court:

All the parties were present during the discussion of the terms, and for the record Ms. Randolph, do you agree to the settlement?

Ms. Randolph:

Yes, I do.

The Court:

Mr. Louik?

Mr. Louik:

I do.

The Court:

Mr. Kamin?

Mr. Kamin:

Yes sir.

The Court:

On behalf of the defendant Mr. Box, the President,
do you agree?

Mr. Box:

Yes, I do.

The Court:

Mr. Meyer, do you agree?

Mr. Meyer:

Yes.

The Court:

Mr. Murphy?

Mr. Murphy:

I do.

The Court:

Mr. Andrascik?

Mr. Andrascik:

I do.

LIZ RANDOLPH
314 Pennsviue Court
Pittsburgh, PA 15205

April 27, 1989

EEO Branch
FCC
1919 M. Street N.W.
Room 7218
Washington, D.C. 20544

ATTENTION: Glenn Wolfe

Dear Mr. Wolfe:

Please allow this letter serve as formal notice regarding various acts of sex discrimination practiced by EZ Communications, Inc., the owner and operator of WBZZ-FM (Pgh., PA). I am also requesting that this letter be made part of the formal record in WBZZ's Application Renewal Request.

I am a newscaster with eleven (11) years experience. To make my story brief, I worked for WBZZ for two (2) years, eight (8) months. During the last two years of my tenure I was subjected, at various times to sexist, degrading on air comments by two male disc jockeys with whom I worked in the capacity of News Director.

These "humorous" statements implied that I am promiscuous, have sexually transmitted diseases, and have engaged in oral sex with large numbers of persons.

I complained about these attacks to the jocks involved, Jim Quinn and "Banana" Don Jefferson. I also complained at various times to the management of WBZZ but to no avail. They, meaning management and the jocks, were fully aware that these comments were affecting my ability to do my job by inducing panic attacks on the air; yet, the statements continued. In fact, after being hospitalized for this condition, when I returned to work, not only did the sexual comments continue, but Quinn and Banana (with the knowledge of management) started referring to my treatment on the air.

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Quinn and Banana's comments were often prerecorded - meaning the "jokes" which named me specifically were premeditated. Sworn testimony, which is enclosed, indicates that management and the jocks thought these comments "fair". The enclosed evidence also shows that they targeted me because I am a single woman. I must stress that these comments were clearly directed at me because of my sex (female), and would not have been considered "humorous" if directed at a man. Several listeners who heard these themes have written to me in disgust. One woman says, "It's difficult to imagine a man in a similar situation", with men adding that they found the comments misogynistic, sexist, and degrading.

The final straw in this series of ongoing discriminatory attacks came January 22, 1988. On that date, Quinn and Banana aired a pre-taped segment which named me specifically. The comment sought to convey the idea that I engage in so much oral sex and was so proficient in that regard, that I have a tattoo on my head which reads, "Don't pull on my ears, I know what I'm doing". Jim Quinn told me in advance on that day that something about me was about to be aired. I did not hear the comment air, but when it was played back to me afterwards, I became terribly upset, so much that I was unable to complete my final two newscasts. The station fired me a week later for alleged flagrant neglect of duty. I filed and won a union grievance for severance pay. The Arbitrator's Decision is enclosed for reference and I ask you to incorporate it in the renewal proceedings. WBZZ has appealed the ruling to Federal Court. A decision is due soon.

In addition, I have filed civil litigation against EZ Communications, Inc. alleging defamation, wrongful discharge, intentional and negligent infliction of emotional distress, and invasion of privacy. I have also filed a charge with the Human Relations Commission alleging sex discrimination under Pennsylvania law. Copies of the Complaint and charge are also

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What action can I now take to have WBZZ's License Renewal Application put on hold until this matter is resolved? In my opinion and the opinion of knowledgeable persons in this business, these comments have nothing to do with programming in the public's interest, convenience and necessity. Not only are the comments discriminatory against women, but one wonders whether they belong in "morning drive", a time when many children are listening. WBZZ is the station of choice for a majority of teenagers in the Greater Pittsburgh Market. The ratings show this. Many parents have told me that they have written the station and the FCC about this situation. I assume these letters are a part of the public file and will be taken into consideration during the FCC's license renewal process.

Again, please advise as to what further action I might take. I have enclosed the following documents for your files, which are not for further dissemination without my prior written authorization:

<u>Exhibit</u>	<u>Reference</u>
"A"	January 22, 1988 letter from Samuel P. Kamin to EZ Communication's President Alan Box and WBZZ General Manager, Tex Meyer
"B"	Amended Civil Complaint
"C"	Pennsylvania Human Relations Commission Complaint
"D"	Depositions: Quinn pages 38-39, 75-88, 93-93; Jefferson pages 44-70; Meyer page 21; Mallinger pages 140-145
"E"	Arbitrator's Decision
"F"	Press articles and letters

Thank you very much for your time and consideration.

Very truly yours,

LIZ RANDOLPH

LR:msb
Encs.

JUN 15 1989

83022
ATTACHMENT NO. 7

FCC MAIL BRANCH

JUN 15 1989 CS-109

Signed By
Mailed By

Liz Randolph
314 Pennsview Court
Pittsburgh, Pennsylvania 15205

Dear Ms. Randolph:

This refers to your letter of April 27, 1989 and subsequent telephone conversations informing the Commission that you have filed a sex discrimination complaint with the Pennsylvania Human Relations Commission and a civil suit with the Court of Common Pleas of Allegheny County, Pennsylvania against EZ Communications, Inc., licensee of Station WBZZ-FM, Pittsburgh, Pennsylvania.

Initially, it appears that you took the proper course of action by filing your complaint with the Pennsylvania Human Relations Commission and the Court of Common Pleas. The Commission and the Equal Employment Opportunity Commission (EEOC) does share jurisdiction regarding some aspects of equal employment opportunities in broadcasting. However, pursuant to the Memorandum of Understanding between the Federal Communications Commission and Equal Employment Opportunity Commission, 70 FCC 2d 2320 (1978), the Commission does not duplicate the fact-finding functions of agencies such as EEOC or the courts. Thus, it is the Commission's policy to refer cases involving complaints of discrimination to those agencies with authority to enforce laws prohibiting such discrimination. Under Title VII of the Civil Rights Act, the (EEOC) has the responsibility for investigating complaints of individual discrimination and seeking relief for aggrieved parties. The Commission does, of course, take cognizance of any final determination made by an agency or court involving a licensee. Accordingly, when a final determination has been rendered by the EEOC and/or courts with respect to your complaint, please notify us and we will take whatever action is deemed appropriate at that time.

The Commission does have the responsibility, however of reviewing a broadcaster's overall performance to determine whether it has made reasonable, good faith efforts to serve the needs and interests of the public within the station's service area. Accordingly, the Commission will carefully review the operations of WBZZ-FM, during the processing of its application for renewal which will begin in December 1990. If it is your intention to file a petition to deny an application for renewal of a broadcast license or an informal objection, Section 73.3584 of the Commission's Rules specifies that to be timely, a petition to deny must be filed by the last day for filing a mutually exclusive application. That date for Station WBZZ (FM) is January 1, 1990. A petition must also present factual allegations supported by affidavits of persons with personal knowledge of the facts alleged to show that the grant of the renewal of the application would be prima facie inconsistent with our rules. Should the petition raise substantial and material questions of fact,

the Commission may designate the renewal application for hearing. Pyle Communications (KIEZ/KWIC-FM, 4 FCC Rcd 1254 (1989)). Petitions that fail to meet the procedural requirements but raise a question concerning the licensee's EEO practices are reviewed as informal objections. To be considered an informal objection, the pleading is due before the FCC takes action on the application and must raise a substantial and material question of fact to warrant further inquiry. See Section 73.3587 of the Commission's Rules. If review reveals that deficiencies exist, the Commission will take appropriate action.

Thank you for your letter to the Commission. It will be associated with our confidential EEO broadcast licensee files. I trust that this has been responsive. Should you have additional questions, please call us at (202) 632-7069.

Sincerely,

Glenn A. Wolfe
Chief, EEO Branch
Enforcement Division
Mass Media Bureau

CL2

/z/queen/randolph

PPH

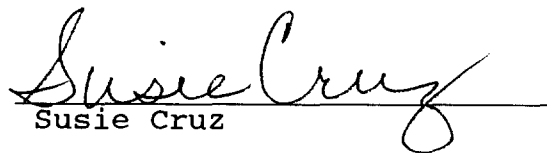
CERTIFICATE OF SERVICE

I, Susie Cruz, do hereby certify that on the 12th day of April 1993, a copy of the foregoing "Motion To Certify Hearing Designation Order To The Commission" was sent first-class mail, postage prepaid to the following:

Paullette Y. Laden, Esq.*
Robert A. Zanner, Esq.
Hearing Branch
Federal Communications Commission
2025 M Street, N.W., Room 7212
Washington, D.C. 20554

Rainer K. Kraus, Esq.
Herbert D. Miller, Esq.
Koteen & Naftalin
1150 Connecticut Avenue, NW
Suite 1000
Washington, DC 20036

Counsel for EZ Communications, Inc.


Susie Cruz

*HAND-DELIVERED